

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF INYO

Plaintiff: PEOPLE OF THE STATE OF CALIFORNIA

Defendant: \_\_\_\_\_

Case No. \_\_\_\_\_

GENERAL **FELONY**  
ADVISEMENT OF RIGHTS,  
WAIVER, AND PLEA FORM<sup>1</sup>

Fill out this form if you wish to plead guilty or no contest to the charges against you. Place your initials within the brackets for each applicable item only if you understand it, and sign and date the form on the last page. Some items, especially those brackets noted by an asterisk (\*) may not be applicable in your case. "N/A" may be placed within any brackets for items that are not applicable. If you have any questions about your case, the rights you would be giving up by pleading guilty or no contest, the possible sentence, or the information on this form, ask your attorney or the judge.

1.a. **RIGHT TO AN ATTORNEY:** I understand that I have the right to be represented by a qualified attorney throughout the proceedings. I have the right to hire or retain an attorney of my own choice. I understand that the Court will appoint an attorney to represent me, without any cost to me, if I cannot afford to hire one. [       ]

1.b. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself. \* [       ]

**NATURE OF THE CHARGES**

2. I understand that I am charged with the following offense(s):

\_\_\_\_\_ [       ]

3. I understand that I am also charged with having the following **prior conviction(s)**:

\_\_\_\_\_ \*[       ]

4. I understand that I am also charged with violating the **probation order** in case(s):

\_\_\_\_\_ \*[       ]

<sup>1</sup> Do not use this form for felony DUI or domestic violence pleas

5. I understand the charge(s) against me, and the possible pleas and defenses. [ ]

## CONSTITUTIONAL RIGHTS

6. RIGHT TO A PRELIMINARY EXAMINATION AND A JURY TRIAL-I understand that I have the right to a speedy and public preliminary examination and a jury trial. I understand that a preliminary examination is a hearing before a judge to determine if there is reasonable and probable cause to believe that the felony offense(s) charged have been committed, and committed by me. I further understand if I am ordered to stand trial after a preliminary examination, I have the right to a speedy and public trial by jury. At the trial, I would be presumed innocent, and I could not be convicted unless all 12 impartial jurors were convinced that the District Attorney's Office had proven my guilt beyond a reasonable doubt. [ ]

7. RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES-I understand that at the preliminary examination and trial, I have the right to confront and cross-examine all witnesses testifying against me. I understand that I have the right to have them appear in Court and testify under oath in front of me, and that I or my attorney may ask them questions. [ ]

8. RIGHT AGAINST SELF-INCRIMINATION-I understand that I have the right to remain silent and not incriminate myself. I also understand that I have the right to testify on my own behalf, but only if I want to. I understand that I can not be forced or compelled to testify, and that if I elect to remain silent, my silence will not be considered as any evidence of guilt. I understand that by pleading guilty or no contest, or admitting prior conviction(s) or probation violation(s), I am incriminating myself. I understand that if I am pleading no contest the Court will have no choice but to find me guilty of that charge(s), and a plea of no contest will not have any other benefit to me. [ ]

9. RIGHT TO PRODUCE EVIDENCE-I understand that I have the right at the preliminary examination and at trial to present evidence, and to have the Court issue subpoenas (or orders) to bring into court all witnesses and evidence favorable to me, at no cost to me. [ ]

10. RIGHTS ON CHARGES OF PRIOR CONVICTION(S) AND PROBATION VIOLATION(S)- If applicable-I understand that I have the right to an attorney, the right to a jury trial, the right to confront and cross-examine all witnesses, the right against self-incrimination, and the right to produce evidence for all the charges against me, including any charged prior conviction(s) or probation violation(s). However, for a charge of violating probation, I do not have the right to a jury trial, although I do have the right to a hearing before a judge. \*[ ]

## WAIVER OF RIGHTS

Understanding all this, for all the charges against me, including any prior conviction(s) or probation violation(s):

11. I give up my right to an attorney and I choose to represent myself. \* [       ]
12. I give up my right to a preliminary examination (unless I have already had a preliminary examination in this case), and I give up my right to a jury trial. [       ]
13. I give up my right to confront and cross-examine witnesses. [       ]
14. I give up my right to remain silent and to not incriminate myself. [       ]
15. I give up my right to produce evidence and witnesses on my own behalf. [       ]

## CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

16. PENALTY: I understand that the possible consequences for the offense(s) charged include the following:

- \_\_\_\_\_ years in state prison followed by a term of parole as provided by law, and \$10,000 fine plus assessments.

Parole may be for a term of 3 years (except as provided below)<sup>2</sup>, and if I violate parole, I may be returned to state prison for up to one full year for each violation. Even if probation is granted, I may be required to serve up to one year in the county jail, as an initial term and condition of probation. If probation is granted and later revoked, I understand the maximum sentence can be imposed.

[    ] Probation Ineligibility: I understand and agree that I am statutorily ineligible for a grant of probation, and/or it is agreed as part of my plea agreement in this case that I will not be granted probation. As a result, I understand that the Court will deny me probation, and that I will be sentenced to state prison.

[    ] Presumptively Ineligible for Probation: I understand and agree that I am presumptively ineligible for a grant of probation. This means that probation will be denied and I will be sentenced to state prison, unless after considering the criteria in *California Rules of Court*, Rule 4.413, the Court finds that unusual circumstances exist in my case, and that it would best serve the interests of justice to grant me probation. I understand that Courts rarely make such findings.

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<sup>2</sup> Five years for most Indeterminate Sentencing Law crimes. As provided in PC § 3000(b)(5), seven years for designated violent sex crimes (except "One Strike" crimes). As provided by PC § 3000(b)(5), the maximum period of parole for "One Strike" sex crimes is 14 years. As provided by PC § 3000.1, the maximum parole period for murder is "life."

[    ] Serious or Violent Felony Conviction: I understand that my conviction(s) in this is to serious and/or violent felonies within the meaning of Penal Code §§ 1192.7, 1192.8, and/or 667.5. I understand that even if I am otherwise eligible for a grant of probation, the Court can not grant me probation unless the Court is satisfied with the Prosecutors statement of reasons for the plea agreement, as required by Penal Code § 1192.7. I also understand that my conviction(s) will constitute a “strike” conviction. If I am ever convicted of any felony offense(s), at any time in the future, this conviction(s) may be used as a strike prior(s) to enhance the sentence that could otherwise be imposed for the new felony or felonies. The enhancement will include, but is not limited to, rendering me ineligible for a grant of probation, significantly increasing my state prison sentence, and significantly reducing or limiting the good time, work time, and conduct credits that I would otherwise be eligible to earn while in custody.

[    ] Limitation on Credits: I understand that I will be convicted of a “violent” felony under Penal Code § 667.5(c). If I am sentenced to state prison, under Penal Code § 2933.1, a 15% limitation applies to the conduct credits I can earn. I understand that the 15% limitation on the award of good/work time conduct credits applies if I am convicted of a violent sex offense as provided in Penal Code § 667.61, or am designated as a habitual sex offender under Penal Code § 667.71. As provided in Penal Code § 2933.2, I understand that if I am convicted of murder or certain violent offenses, with two or more prior prison terms, I will not earn any good/work time credits at all.

Diagnostic Evaluation: I understand that if I am otherwise eligible for a grant of probation, before deciding whether or not to grant me probation, the Court may commit me for up to 90-days to the California Department of Corrections for a diagnostic evaluation.

Youthful Offender: I understand that if I was under the age of 21 years when apprehended, it is possible that I will be committed to the California Department of Corrections and Rehabilitation (CDCR) Division of Juvenile Justice (formerly known as the California Youth Authority). (W&I Code §§ 1731.5, 1766)

[    ] I understand that there is a minimum jail term of \_\_\_\_\_ days that must be imposed.

I understand that the Court may issue a criminal protective order under Penal Code § 136.2, that will be require me, among other terms, not to contact, directly or indirectly, by any means whatsoever, and to otherwise stay away from the victim(s) and/or witnesses(s). I understand that I will be prohibited from owning, possessing, or having custody or control over any firearm while the protective order is in effect.

- I understand that fees and/or assessments will significantly increase the amount of the fine that I must pay. A \$20 security fee/assessment will also be imposed for each conviction.
- Payment of Victim Restitution, including the cost of the Victim's counseling and other expenses incurred by the Victim(s). I understand that prior to my probation and sentencing hearing, I must provide the Probation Department and file with the Clerk of this Court a disclosure form (Judicial Council Form CR-115 which is available at the Clerk's Office) as required by Penal Code § 1202.4(f)(4&5), including, but not limited to, identifying all assets, income, and liabilities in which I held or controlled a present or future interest as of the date of my arrest for the crime for which restitution may be ordered. If I am granted probation or a conditional sentence, I understand that I must also file with the Court a new and updated financial disclosure form 120 days before the scheduled termination of my probation or conditional sentence, if I still owe money on a victim restitution order or restitution fine. [PC § 1202.4(f)(11)]
- Mandatory state restitution fine-In addition to Victim Restitution and other fines and fees, the Court will impose a State Restitution Fine in the minimum amount of \$200 and the maximum amount of \$10,000 [PC § 1202.4(b)(1)] If I am granted probation, I understand a Probation Revocation Restitution Fine will also be imposed in the same amount as the state restitution fine, however, the Probation Revocation Restitution Fine will only become effective if my probation is revoked. [PC § 1202.44] If I am sentenced to state prison, now or upon a revocation of probation, I will also be ordered to pay a Parole Revocation Restitution Fine in the same amount as the State Restitution Fine, which will be suspended upon my successful completion of the entire term of parole. [PC § 1202.45]
- Arson and Attempted Arson Cases: I understand that I will be required to register as required by Penal Code § 457.1, and if I fail to do so my probation, if any, may be revoked, and/or I will be subjected to separate criminal prosecution.
- Gang Offenses: I understand that I will be required to register as provided by Penal Code § 186.30 et seq., and if I fail to do so my probation, if any, may be revoked, and/or I will be subjected to separate criminal prosecution.
- Theft Related Offense: I understand that if I am convicted of a violation of either Penal Code §§ 211, 215, 459, 484/487, 484/488 the Court must impose a \$10 fine under Penal Code § 1202.5. I understand that if I serve at least one day in jail for this conviction, if I am charged with petit theft in the future, it may be charged as a felony offense.
- Automobiles: I understand if I am convicted of felony assault (PC § 245) by means of a deadly weapon or instrument, where the Court finds that the deadly weapon or instrument was an automobile, my privilege to operate a motor vehicle

will be revoked for the rest of my life. [Vehicle Code § 13351.5] My privilege to operate a motor vehicle will be suspended for at least one (1) year under Vehicle Code § 13350, if I am convicted of any felony in which I used a motor vehicle in the commission of the felony, unless another provision of law provides for a longer suspension or revocation. If I am convicted of Vehicle Code § 10851, upon recommendation of the Court, the Department of Motor Vehicles must suspend or revoke my privilege to drive.

- Sex Offenses:
  - As provided in Penal Code § 288.1, I understand that I will be required to undergo a psychological/psychiatric evaluation, and that I can not be granted probation, unless the Court receives a favorable report as to my mental condition from a reputable psychologist or psychiatrist who meets the standards set forth in Penal Code § 1027.
  - I understand that as a result of this conviction I will be required under Penal Code Section 290 to register as a sex offender. Failure to register as required we constitute a violation of my probation (if any), and/or subject me to separate criminal prosecution.
  - I understand that I must pay an additional fine as required by PC § 290.3
  - If convicted of a violent sex offense as specified in Penal Code § 667.61, or I am determined to be a habitual sex offender under Penal Code § 667.71, there will be a limit of 15% on the award of “good/work time” conduct credits that I can earn.
  - I will not be allowed visitation with any child victim as provided by PC § 1202.05.
  - I also understand that I will be required to submit to HIV testing as provided by PC § 1202.1,
  - I understand that my state prison sentence may be extended under the civil commitment procedures of Welfare & Institutions Code §§ 6250, 6600 et seq. (sexually violent predator statutes).
- Drug Offenses:
  - If I am convicted a drug related offense, the conviction may prevent me from obtaining federal educational financial aid.
  - If I am convicted of a felony offense involving the use, possession, or distribution of drugs, I will not be eligible to receive CalWORKS aid and food stamps for the rest of my life. [WIC § 11251.3]
  - If I am convicted of a felony and I used a motor vehicle in the commission of the felony (such as transporting controlled substances), my privilege to operate a motor vehicle will be suspended or revoked for at least one (1) year as provided by Vehicle Code § 13350.

- If I am convicted of a violation of Health & Safety Code § 11350 the Court must impose a minimum fine of \$1,000 plus assessments for a first offense, or a minimum fine of \$2,000 plus assessments for a second or subsequent offense. The Court may require me to perform community work service in lieu of all or a portion of the fines.
- I will be required to register as a narcotics offender as provided by Health & Safety Code § 11590, and my failure to do so may result in a violation of my probation (if any), and/or a separate criminal prosecution under Health & Safety Code § 11594.
- If I am convicted of a violation of either Health & Safety Code §§ 11350 or 11377, I will be required to pay \$70 to the Aids Education Fund (unless the Court determines I don't have the ability to pay the fine). [H&S §§ 11350(c) and 11377(c)]
- For any felony drug conviction, I will be required to pay a \$50 lab fee as required by H&S § 11372.5. For any felony drug conviction, I will be required to pay a \$150 drug program fee (even if I don't go to a drug program), as required by H&S § 11372.7, unless the Court determines I don't have the ability to pay,
- I understand that if the Judge before whom I appear for sentencing determines that I a narcotics addict or in imminent danger of becoming one, I could be committed to the California Rehabilitation Center for treatment, and I could remain subject to its jurisdiction and control for up to the maximum term that I could be imprisoned. (W&I Code §§ 3051 *et seq.*)
- Life Time Firearm Prohibition-The Court will order and the law otherwise provides a lifetime firearm prohibition, so that I can not own, possess, or have custody or control over any type of firearm for the rest of my life. Violation of that prohibition may subject me to separate federal and/or state felony prosecution. [PC § 12021(a)(1)] [        ]

17. I understand that if I am not a citizen of the United States of America, a plea of guilty or no contest could result in my deportation from this country, permanent exclusion from admission to this country, and denial of naturalization or citizenship. [        ]

18. I understand that if I am on probation or parole in any other case, in this or any other jurisdiction, my plea of guilty or no contest in this case may be used against me and result in the violation or revocation of my probation and/or parole, and subject me to the maximum penalties that could be imposed in any other case or cases that I might be on probation or parole. I understand the maximum penalty that can be imposed for any applicable probation or parole violations. [        ]

19. I understand that at the probation and sentencing hearing the Court has the discretion or right to reject the settlement agreement in this case. If the Court does so, I understand my plea(s) will be tendered back to me, and I will be returned to the same procedural status I am in now (with the right to a jury trial), but that would occur at some unknown future date. [ ]

20. I understand that if I plead guilty or no contest, I should assume that doing so is a permanent and final decision. I understand that I will not be allowed to simply change my mind at a future date. I understand that pleas are allowed to be withdrawn only if there is a legal basis and good cause shown for doing so. [ ]

21. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, and will not have any other benefit to me. [ ]

22. I understand that a felony conviction can be used against me in any present or future child custody and/or visitation litigation. [ ]

23. I understand that as a result of this felony conviction I will be required to comply with the provisions of California Penal Code Section 296. I will be required to provide buccal swab samples, thumbprints, full palm print impression of each hand, and any blood specimens or other biological samples required by law for law enforcement identification analysis, including DNA analysis. Failure to comply with the provisions of PC § 296 would constitute a separate crime. [ ]

#### PLEAS

24. I acknowledge that I have had an adequate opportunity to discuss the decision to plead guilty or no contest with an attorney and to consider this decision. I understand the rights I am giving up and the consequences of pleading guilty or no contest. I do not have any questions. I have not consumed any alcohol or drugs that in any way may be adversely affecting my thinking, judgment, or reasoning ability at this time. [ ]

25. In exchange for changing my plea to guilty or no contest, I have been promised the following:

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No other promises have been made to me except as set forth above in writing. No one has threatened me, or anyone close to me, to get me to change my plea(s) to guilty or no contest. [ ]



26. I hereby freely and voluntarily plead \_\_\_\_\_ to the following charge(s): (Guilty or No Contest)

Felony \_\_\_\_\_ [ ]

27. I freely and voluntarily admit the **prior conviction(s)** listed on this form. I understand that this admission will increase the penalties which are imposed on me. \*[ ]

28. I freely and voluntarily admit the **probation violation(s)** list on this form and give up my right to a hearing before a judge regarding the probation violation(s). \*[ ]

29. I understand that I have the right to a delay of 6 hours prior to being sentenced, and the right to a probation and sentencing hearing where I can present evidence in my behalf. I give up these rights and agree to be sentenced at this time. I also waive or give up my right to have my case referred to the Probation Department for a pre-sentence investigation, report, and recommendation. I desire to proceed immediately to sentencing. I understand a report will be prepared as provided by PC § 1203c if I am sentenced to state prison. \*[ ]

30. I understand that I have the right to have the Court pronounce judgment within twenty (20) judicial days from the date of entry of my plea(s) of guilty or no contest. I waive or give up this right, and agree that my probation and sentencing can be held beyond the 20 day judicial day time period. . \*[ ]

31. I understand that I have the right to be sentenced by the Judge who accepts my plea(s) of guilty or no contest. I do hereby enter an *Arbuckle* waiver, and give up my right to be sentenced by the Judge who takes my plea, and agree that I may be sentenced by another Judge. \*[ ]

32. I understand that I must be present at my probation and sentencing hearing. [ ]

33. *Harvey Waiver* – I understand that if one or more charges and/or cases are dismissed with a “Harvey Waiver,” I am agreeing that the facts and circumstances of the dismissed charge(s) or case(s) may be considered by the Probation Department and the Court in imposing probation terms and/or judgment (sentence) in my case. [ ]

34. *Cruz Waiver* – I understand and agree that if I willfully fail to appear for sentencing, any lid or sentencing agreement will be void, and the maximum sentence may be imposed. (*People v. Cruz* (1988) 44 Cal.3d 1247) \*[ ]

DATED: \_\_\_\_\_  
Defendant’s Signature

### ATTORNEY'S STATEMENT

I am the attorney of record for the Defendant. I have reviewed this form and any addenda with my client. I have explained each of the defendant's rights to the defendant and answered all of the defendant's questions with regard to this plea. I have also discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and in the defendant's decision to waive his or her constitutional rights.

\_\_\_\_\_  
Signature of Defendant's Attorney

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Date

### INTERPRETER'S STATEMENT

I, having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that (s)he understood the contents of the form, and then (s)he initialed and signed the form.

Language: [    ] Spanish [    ] Other: (Specify) \_\_\_\_\_

\_\_\_\_\_  
Court Interpreter's Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Date

### PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff, by its attorney, the District Attorney for the County of Inyo, concurs with the Defendant's plea of Guilty/No Contest as set forth above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print Name & Title)

\_\_\_\_\_  
Date

### COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and any addenda, and having questioned the defendant concerning the defendant's constitutional rights and the defendant's plea(s), admission of prior conviction(s) and probation violation(s), if any, finds that the Defendant has expressly, knowingly, understandingly, and intelligently waived his or her constitutional rights. The Court further finds that the defendant's waiver of rights, plea(s) and admission(s) are freely and voluntarily made with a knowing and intelligent understanding of the nature and consequences thereof, and that there is a factual basis for the plea(s) and admission(s). The Court accepts the defendant's plea(s), the defendant's admission to prior conviction(s) and probation violation(s), if any, and orders this form filed and incorporated in the docket by reference as though fully set forth therein.

\_\_\_\_\_  
Judge of the Superior Court

\_\_\_\_\_  
Date